

Message Text

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E.O. 11652: GDS

TAGS: TSPA, UN

SUBJECT: REQUEST TO REPEAT 77 STATE 282409

REF: GENEVA 3935

FOLLOWING IS REPEAT OF STATE 282409 DATED NOVEMBER 25,
1977: (QUOTE)

R 252125Z NOV 77
FM SECSTATE WASHDC
TO AMEMBASSY QUITO
INFO AMEMBASSY BOGOTA
AM-MBASSY BRASILIA
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AMEMBASSY JAKARTA
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USMISSION USUN NEW YORK

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PAGE 02 STATE 065137

E. O. 11652: N/A

TAGS: TSPA, UN

SUBJECT: U.S. POSITION ON GEOSYNCHRONOUS ORBIT

REFS: A) QUITO 339, B) 76 BOGOTA 11894, C) 76 STATE 260266

D) STATE 175153

1. SUMMARY. US OPPOSITION TO REPEATED CLAIMS OF EQUATORIAL COUNTRIES TO SOVEREIGNTY OVER GEOSTATIONARY ORBIT (GSO) HAS BEEN CLEARLY ELABORATED ON SEVERAL OCCASIONS DURING THE PAST YEAR. SYNOPSIS OF EQUATORIAL AND US POSITION IS SET FORTH BELOW. END SUMMARY.

2. THE EQUATORIAL COUNTRIES, LED BY COLOMBIA AND ECUADOR, HAVE REITERATED THEIR CLAIMS TO SOVEREIGNTY OVER GSO IN SEVERAL FORA, INCLUDING A) RECENT SESSIONS OF THE UN OUTER SPACE COMMITTEE AND ITS LEGAL SUBCOMMITTEE, B) THE JULY 1977 ECOSOC SESSION AND C) THE JANUARY 1977 ITU WORLD ADMINISTRATIVE RADIO CONFERENCE. ECUADORIAN FONMIN LASSO RAISED SUBJECT IN HIS ADDRESS TO UNGA PLENARY SEPT. 27 DECLARING DETERMINATION TO MAINTAIN CLAIM "DESPITE ANY OBSTACLE THAT MAY BE PUT ON OUR WAY." MAJOR THEMES CONTINUE TO BE THOSE SET FORTH IN THE BOGOTA DECLARATION OF DECEMBER 3, 1976, AS FOLLOWS:

A. THE GSO IS A SCARCE NATURAL RESOURCE WHICH EXISTS EXCLUSIVELY BY VIRTUE OF ITS PHYSICAL RELATION TO THE GRAVITATIONAL PHENOMENA GENERATED BY THE EARTH, AND PARTICULARLY BY UNDERLYING TERRITORY.

B. ACCORDINGLY, THOSE SEGMENTS OF THE GSO LYING ABOVE LIMITED OFFICIAL USE

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PAGE 03 STATE 065137

EQUATORIAL STATES ARE NOT IN OUTER SPACE BUT ARE A SEPARATE AND DISTINCT ENTITY FORMING AN INTEGRAL PART OF THE TERRITORY (NATIONAL SPACE) OVER WHICH THE UNDERLYING STATES MAY EXERCISE SOVEREIGNTY, PARTICULARLY IN ACCORDANCE WITH GA RES 2692 (PERMANENT SOVEREIGNTY

OVER NATURAL RESOURCES) AND GS RES 3281 (CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES).

C. THE EXERCISE OF SUCH SOVEREIGNTY DOES NOT REQUIRE ACCEPTANCE BY OTHER STATES AND THE EQUATORIAL STATES WILL NOT NEGOTIATE QUESTIONS OF, OR RIGHTS TO, THE GSO.

D. EQUATORIAL STATES RECOGNIZE A RIGHT OF FREE TRANSIT THROUGH GSO BUT REQUIRE EXPRESS PRIOR AUTHORIZATION FOR USE OF GSO OVER THEIR TERRITORY IN ACCORDANCE WITH THEIR DOMESTIC LAW.

E. SEGMENTS OF GSO OVER HIGH SEAS SHOULD BE CONSIDERED COMMON HERITAGE OF ALL MANKIND.

F. IN ABSENCE OF AGREED DEFINITION OR DELIMITATION OF OUTER SPACE, INTERNATIONAL LAW IN GENERAL AND THE 1967 OUTER SPACE TREATY IN PARTICULAR DO NOT PROHIBIT EXERCISE OF SOVEREIGNTY OVER GSO.

G. USE OF GSO MUST BE IN INTEREST OF NATIONAL DEVELOPMENT AND WELL-BEING OF PEOPLES OF UNDERLYING STATES. INTERESTS OF INTERNATIONAL COMMUNITY ARE NOT SERVED BY PERMITTING FEW TECHNOLOGICALLY ADVANCED COUNTRIES TO MONOPOLIZE GSO ON "FIRST COME, FIRST SERVED" BASIS.

3. THE US HAS ADDRESSED THESE ARGUMENTS BOTH BILATERALLY AND MULTILATERALLY ON SEVERAL OCCASIONS, MOST LIMITED OFFICIAL USE

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PAGE 04 STATE 065137

COMPREHENSIVELY IN UN LEGAL SUBCOMMITTEE ON APRIL 6, 1977 (COPY POUCED TO QUITO). ESSENTIAL POINTS ARE AS FOLLOWS:

A. ARTICLE II OF THE 1967 OUTER SPACE TREATY EXPLICITLY STATES THAT "OUTER SPACE, INCLUDING THE MOON AND OTHER CELESTIAL BODIES, IS NOT SUBJECT TO NATIONAL APPROPRIATION BY CLAIM OF SOVEREIGNTY, BY MEANS OF USE OR OCCUPATION, OR BY ANY OTHER MEANS." THERE IS NO JUSTIFICATION IN THE TREATY (OR ELSEWHERE) FOR TREATING GSO DIFFERENTLY FROM ANY OTHER ORBIT. ACCORDINGLY, SATELLITES IN GSO ARE NOT SUBJECT TO DOMESTIC JURISDICTION OF UNDERLYING STATE. BY THE SAME TOKEN, HOWEVER, USE OF GSO DOES NOT PROVIDE THE LAUNCHING STATE ANY RIGHT OF SOVEREIGNTY OR CLAIM OF OWNERSHIP TO THAT ORBIT.

B. GSO IS THAT ORBIT IN WHICH A SATELLITE ROTATES AROUND THE EARTH AT THE SAME RATE THAT THE EARTH TURNS ON ITS AXIS. THE SATELLITE THUS APPEARS TO BE STATIONARY WITH RESPECT TO A GIVEN POINT ON THE EARTH'S SURFACE. GIVEN EARTH'S MASS AND PRESENT ROTATION RATE, THE GSO IS APPROXIMATELY 22,300 MILES ABOVE EARTH'S SURFACE. IT IS THEREFORE FAR BEYOND THE ALTITUDES OF MOST SATELLITES IN ORBIT OR PLANNED.

C. GSO IS BUT ONE OF AN INFINITE NUMBER OF ORBITS INTO WHICH SATELLITES CAN BE PLACED. FROM SCIENTIFIC STANDPOINT GSO IS LIKE ANY OTHER CLOSED ORBIT. ITS LOCATION IS A FUNCTION OF THE TOTAL GRAVITATIONAL FIELD AND THE ROTATION RATE OF THE EARTH.

D. DUE TO PERTURBATIVE EFFECTS OF ACTIONS OF SUN, LIMITED OFFICIAL USE

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PAGE 05 STATE 065137

MOON AND LARGER PLANETS, AS WELL AS ASSYMMETRIES IN THE EARTH'S MASS DISTRIBUTION, GSO IS NOT AN ORBIT IN WHICH A SATELLITE WILL REMAIN STEADY INDEFINITELY, SATELLITES REQUIRE ADJUSTMENT MANEUVERS TO MAINTAIN STEADY GSO.

E. THERE IS NO EXCLUSIVE RELATIONSHIP (PHYSICAL OR OTHERWISE) BETWEEN THE GSO AND ANY PARTICULAR UNDERLYING COUNTRY. ENTRY INTO GSO CAN BE ACHIEVED BY LAUNCH FROM ANY COUNTRY ON EARTH; THE ENERGY REQUIREMENTS FOR INSERTION INTO GSO VARY WITH PAYLOAD, MASS AND LATITUDE OF LAUNCH AMONG OTHER FACTORS; AND ORBITAL MECHANICS OF GSO ARE BASED ON INTERACTION BETWEEN THE PARTICULAR ORBITING VEHICLE AND THE PROPERTIES OF THE WHOLE EARTH. GSO IS COMPLETELY UNAFFECTED BY NATIONAL BOUNDARIES OR POLITICAL JURISDICTIONS ON THE SURFACE OF THE EARTH.

F. THERE IS NO TECHNICAL OR LEGAL BASIS FOR CONSIDERING THAT GSO DOES NOT LIE IN OUTER SPACE, THEREFORE, ITS USE MUST BE GUIDED BY THE PROVISIONS OF THE 1967 OUTER SPACE TREATY.

G. GSOS WERE UNDERSTOOD AND UTILIZED BEFORE AND DURING THE NEGOTIATION OF THE 1967 TREATY AND IT IS CLEAR THAT NO DISTINCTION WAS INTENDED TO BE DRAWN NOR ANY SPECIAL TERMS INTENDED TO APPLY TO GSOS. HENCE IT CANNOT BE PERSUASIVELY ARGUED THAT A "GAP" EXISTS IN THAT TREATY.

H. THE 1967 TREATY STATES THAT "OUTER SPACE...SHALL BE FREE FOR EXPLORATION AND USE BY ALL STATES WITHOUT DISCRIMINATION OF ANY KIND, ON A BASIS OF EQUALITY AND IN ACCORDANCE WITH INTERNATIONAL LAW..." ARTILCE 33, PARA 131, OF THE INTERNATIONAL TELE-COMMUNICATION CONVENTION CALLS FOR THE EFFICIENT AND LIMITED OFFICIAL USE

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PAGE 06 STATE 065137

ECONOMICAL USE OF RADIO FREQUENCIES AND THE GSO "SO THAT COUNTRIES OR GROUPS OF COUNTRIES MAY HAVE EQUITABLE ACCESS TO BOTH IN CONFORMITY WITH THE PROVISIONS OF THE RADIO REGULATIONS ACCORDING TO THEIR NEEDS AND THE TECHNICAL FACILITIES AT THEIR DISPOSAL." ACCORDINGLY, THE REQUIREMENTS OF INTERNATIONAL LAW, AND THE INTERESTS OF THE INTERNATIONAL COMMUNITY,

CAN ONLY BE MET BY ASSURING THE FREE AND EQUITABLE USE
OF OUTER SPACE BY ALL NATIONS. UNILATERAL ASSERTIONS
OF SOVEREIGNTY DO NOT SERVE THAT GOAL.

4. ADDRESSEES ARE REQUESTED TO KEEP DEPT INFORMED
OF SIGNIFICANT STATEMENTS OF DEVELOPMENTS REGARDING
EQUATORIAL CLAIMS TO GSO AS THEY MAY OCCUR. (END QUOTE)

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